

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Michael King	Team: Team # 4	CCRB Case #: 200301252	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 02/15/2003 3:30 PM	Location of Incident: 52nd St & 2nd Ave in Manhattan	Precinct: 17	18 Mo. SOL 8/15/2004	EO SOL 8/15/2004	
Date/Time CV Reported Mon, 02/17/2003 2:27 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Mon, 02/17/2003 2:27 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Paul Harloff	06802	902652	081 PCT
2. SGT Christophe McCormack	04729	895704	044 PCT
3. An officer			
4. POM Paul Tsoukias	17974	929281	105 PCT
5. INS Neil Spadaro	00000	873342	PBMS

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Andrew Modell	31385	922806	043 PCT
2. POM Malik Williamson	25014	927679	081 PCT
3. POM Steven Fontana	25315	893062	081 PCT
4. POM Jose Salgado	12475	919667	043 PCT
5. POM William Sommer	05586	927538	081 PCT
6. POM Frank Anello	22436	885190	SAT B/N
7. POM Daniel Rios	14251	926349	081 PCT
8. POM Ernest James	25252	894705	081 PCT
9. POM Christop Koenke	09046	916016	081 PCT
10. POM Barry Parker	03761	925883	081 PCT
11. POM Kevin Adams	03000	915217	081 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
12. POM William Manderson	05310	925659	081 PCT
13. POM Thomas Kukla	23939	930512	070 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Paul Harloff	Discourtesy: PO Paul Harloff spoke obscenely to § 87(2)(b)	
B. An officer	Force: An officer used physical force against a victim.	
C. An officer	Force: An officer used physical force against § 87(2)(b) by punching § 87(2)(b) in the face.	
D.SGT Christophe McCormack	Force: Sgt. Christopher McCormack used physical force against § 87(2)(b)	
E.INS Neil Spadaro	Force: INS Neil Spadaro used physical force against § 87(2)(b)	
F. An officer	Force: An officer used pepper spray against § 87(2)(b) and § 87(2)(b)	
G.POM Paul Tsoukias	Force: Paul Tsoukias struck a victim with a nightstick.	

Synopsis

This complaint stems from the anti-war rally that took place on February 15th, 2003 at the United Nations headquarters, which received extensive press coverage. As such, the case was determined to be sensitive and placed on the sensitive case list.

There are two primary complainants in this case – § 87(2)(b) and § 87(2)(b). They filed their complaints separately by sending emails to the New York City government website on February 17, 2003 and February 18, 2003, respectively. The emails were forwarded to the CCRB for investigation and the two complaints were combined into one complaint, as the two complaints focused on the same location (52nd Street and 2nd Avenue in Manhattan) and roughly the same time (3-3:30 PM). In essence, at approximately that time at that location, chaos erupted amongst several hundred protesters attempting to move beyond a metal barricade established on the eastern side of the intersection and numerous arrests were made. § 87(2)(b) alleged that prior to the disturbance, PO Paul Harloff, whom he identified in a photographic array, spoke obscenely towards him by saying, “fuck you.” The officer denied this and there was no other civilian or witness statement to corroborate § 87(2)(b) claim. § 87(2)(g) § 87(2)(b) and § 87(2)(b) § 87(2)(b) alleged that an unidentified White male police officer punched an unidentified male protester while at the barricade immediately prior to the chaos. § 87(2)(b) indicated that the victim was depicted in a photograph taken by § 87(2)(b) § 87(2)(g)

§ 87(2)(g)

Summary of Complaint

There are two primary complainants regarding incidents that occurred at the intersection of 52nd Street and 2nd Avenue in Manhattan: § 87(2)(b) and § 87(2)(b). § 87(2)(b) was interviewed at the CCRB on February 28, 2003 (Enclosure 9-9d). He attended the rally with his friend, § 87(2)(b) who was also interviewed (see results of investigation). § 87(2)(b) was interviewed at the CCRB on March 28th, 2003 (Enclosure 7-7d). She attended the rally with her cousin § 87(2)(b) s boyfriend), § 87(2)(b) s cousin), and a classmate of § 87(2)(b) s named § 87(2)(b). Statements were obtained from § 87(2)(b) and § 87(2)(b) (telephone), § 87(2)(b)

§ 87(2)(b) and § 87(2)(b) all of whom were present at this intersection as will be discussed in the results of investigation section below.

All of these statements agreed on the following. On February 15th, 2003 between 2:30 PM and 3:30 PM, a large number of protesters had gathered at the intersection of 52nd Street and 2nd Avenue in Manhattan. The protesters were attempting to go to 1st Avenue for the rally, though the police had established barricades on the eastern side of 52nd Street, thereby boxing in the protesters and prohibiting movement. Approximately 6-8 uniformed police officers were stationed at the barricade, though Mounted Unit officers also responded to the location. At one point, the protesters and the police officers physically engaged each other, causing people in the intersection to disperse while several protesters were arrested. (The majority of the individuals interviewed – specifically, § 87(2)(b) and § 87(2)(b) – agreed that protesters either pushed the barricades or provoked the officers by trying to breach the barricade, which started the chaos at the location. § 87(2)(b) was alone in claiming that the officers pushed the protesters, which started everything.) One of the Mounted Unit officers fell from his horse in the intersection and some of the protesters were able to breach the barricade, thereby walking to 1st Avenue for the rally.

§ 87(2)(b)'s Statement

§ 87(2)(b) indicated that the officers at the barricade were telling the protesters to get off of the street and that, at one point, Mounted Unit officers entered the intersection from behind the barricades, causing the protesters and many foot officers to disperse. § 87(2)(b) separated from his friend and stood with about 9-10 other unidentified protesters in the street. Three uniformed officers (including one § 87(2)(b) identified as PO Tsoukias by name, stating that he initially asked the officer for his shield, which the officer provided, and who later provided his name to § 87(2)(b) when asked) then herded this group of protesters to the eastern sidewalk by pushing them with their batons forward and flat across their chests. There was no injury from this action.

After this, § 87(2)(b) spotted § 87(2)(b) on the sidewalk and walked over to him. § 87(2)(b) then observed an arrest on the southeastern corner of the intersection involving 4-5 officers, including PO Tsoukias, and an unidentified blonde, White male. The officers pushed the male to the ground and then leaned on him, pushing his face into the ground. When the individual was taken away in handcuffs, § 87(2)(b) noticed a pool of blood on the ground where the civilian's face had been. § 87(2)(b) did not see what happened prior to the arrest.

At this point, § 87(2)(b) approached the officer whose shield number he had already obtained; § 87(2)(b) read the officer's nameplate and recorded the information: PO Tsoukias. § 87(2)(b) also spoke to a White male wearing glasses who claimed to have been pepper sprayed in the face, though § 87(2)(b) did not observe this action nor did he know the person's name or have any contact information. Five minutes after this, the police then opened the barricade to allow people to walk past 51st Street on 2nd Avenue. § 87(2)(b) then went to the rally on 1st Avenue. § 87(2)(b) did not sustain any injuries during these incidents and was not arrested.

§ 87(2)(b)'s Photographic Array

§ 87(2)(b) was shown a photographic array on May 6, 2003. The photo array consisted of individuals arrested at the location followed by an array consisting of PO Paul Tsoukias and several duplicate officer photos. Prior to viewing the photographs, § 87(2)(b) briefly recounted some of the incidents that took place at 52nd Street and 2nd Avenue in Manhattan. He recalled several arrests being made, specifically one involving an individual being forced to the ground by 3-5 officers. The person was hit several times and when he was lifted off the ground, § 87(2)(b) observed a pool of blood on the ground. § 87(2)(b) believed that the person sustained a broken nose from this incident, though this was not based on anything other than his observations at the scene.

§ 87(2)(b) recognized the person depicted in photograph three as being present at 2nd Avenue, though he did not recall anything specific happening to him. Photograph three depicted § 87(2)(b) who was arrested at the location but sustained no injuries according to his arrest report. § 87(2)(b) believed that the person depicted in photograph eight was the person who was forced to the ground and injured by the police, stating "this looks like the guy taken down by the police; I just remember the facial hair and his own hair color." He did not see what happened prior to the arrest. Photograph eight depicted § 87(2)(b) who was also arrested but sustained no injuries according to his arrest report. § 87(2)(b)

§ 87(2)(b) did not recognize the people depicted in photographs one, two, four, five, six, or seven. § 87(2)(b) could not identify PO Tsoukias from a photographic array of six officer photographs.

§ 87(2)(b)'s Statement

§ 87(2)(g) § 87(2)(b) indicated that the Mounted Officers entered the intersection and stood behind the protesters, thereby “sandwiching” the protesters between the horses and the barricade on the eastern side of the street. Some of the protesters started talking about breaching the barricade, but several unidentified, uniformed officers were telling them to “move on.” An unidentified protester “rushed” the barricade, causing the corner to erupt. § 87(2)(b) and her friend § 87(2)(b) ran into the middle of the intersection to get away from the barricade. From there, § 87(2)(b) an amateur photographer, started taking photographs of the intersection. § 87(2)(b) claimed to have photographed a “kid” being beaten by several officers, though the photographs did not develop. She also observed a heavysset, White male officer straddling a tall, White male with long curly hair on the ground. She did not see how the male ended upon the ground.

Eventually, § 87(2)(b) reunited with her cousins and § 87(2)(b). An ambulance had arrived on the scene and was treating an unidentified, tall, olive-complexioned male with brown hair. The EMTs treated this male and § 87(2)(b) took his picture. The group then proceeded on to the rally.

When the rally was over, they returned to 52nd Street and 2nd Avenue. § 87(2)(b) and § 87(2)(b) sought the names and shield numbers of some of the officers. When asking PO Paul Harloff for his, he walked away without providing it; § 87(2)(b) had obtained it by reading his nameplate.

§ 87(2)(b)'s photographs

§ 87(2)(b) provided a number of photographs that she took on February 15, 2003 (Enclosures 6-6ka). She also attached her commentary to the back of each photograph. The photographs do not depict anything different than what was described by § 87(2)(b) and § 87(2)(b) (as well as the other civilian victims/witnesses) in terms of numerous protesters and police officers being at the intersection. Of note are photographs that identify PO Harloff (his shield and nameplate are visible in one) and PO Andrew Modell as being present at the intersection. § 87(2)(g) there are three photographs depicting a large, Hispanic or Black male with long black hair being escorted by a uniformed, White sergeant (gold shield displayed) with red hair and a slight mustache. What appears to be blood can be seen on the male protester's face. § 87(2)(b)'s commentary on the back of the photographs claimed that he was the civilian who was being straddled by an officer. Three of § 87(2)(b)'s photographs (Enclosure 6x-6ca) also depicted an unidentified Asian male standing near an ambulance. The male was not handcuffed. § 87(2)(b)'s commentary on the back of these photographs claimed that her cousin § 87(2)(b) had claimed that the unidentified, Asian male had been “beaten” by the police.

Results of Investigation

As noted above, § 87(2)(b) provided a number of photographs to the CCRB. A sequence of the photographs (Enclosure 6p-6u) depicted a large, Asian male with what appeared to be blood on his nose being led away in handcuffs. Arrest photographs of the individuals arrested at the location included a photograph of § 87(2)(b) (Enclosure 16), who was the same individual depicted in § 87(2)(b)'s photograph. § 87(2)(b)'s statement to the CCRB recounted an interaction between officers and a “rather large male” whom § 87(2)(b) described as being a White or Hispanic male, 6’2”, 200 pounds with curly ear-length brown hair. Not only did § 87(2)(b)'s description match § 87(2)(b) he also identified § 87(2)(b) in a photographic array (Enclosure 12c). § 87(2)(b) and his friends – specifically, § 87(2)(b) and § 87(2)(b) – were also interviewed.

§ 87(2)(b)'s arrest report (Enclosure 31-31b) indicated that PO Thomas Kukla of the 70th Precinct served as the arresting officer and arrested § 87(2)(b) at 3:30 PM for § 87(2)(b), § 87(2)(a) 160.50. The arrest narrative indicated: “§ 87(2)(b), § 87(2)(a) 160.50. § 87(2)(b)'s physical condition was listed as “injured – treated and released.” The arrest report did not indicate that force was used to effect the arrest.

Force allegation regarding § 87(2)(b)

§ 87(2)(b)'s statement

According to § 87(2)(b) (Enclosure), who attended the demonstration with § 87(2)(b) after the protesters pushed the barricades, two to three officers (one of them being a plainclothes officer wearing a blue windbreaker) on the eastern side of the avenue tackled § 87(2)(b) who did not appear to be resisting in any way. § 87(2)(b) was with a teenage girl (subsequently identified as § 87(2)(b) on the eastern side of the avenue. Another officer then climbed on top of a pile of officers who had formed around and on § 87(2)(b) § 87(2)(b) fell to the ground, hitting his nose against the ground. § 87(2)(b) heard a “crack” sound of the nose striking the ground. There was “a considerable amount of blood” on the ground where § 87(2)(b)'s face had struck the ground. § 87(2)(b) was then handcuffed and the officers remained on top of him, holding him to the ground for at least two more minutes. Eventually, the officers lifted him from the ground and escorted him to a police van; § 87(2)(b) was still bleeding as they did this. After this incident, one of the mounted officers rode directly into the crowd where there was shoving and pushing. The horse tripped, causing its rider to fall to the ground.

§ 87(2)(b) Photographic Array

§ 87(2)(b) was shown a photographic array on May 6, 2003 (Enclosure 13-13b) consisting of individuals arrested at the intersection of 52nd Street and 2nd Avenue. § 87(2)(b) identified § 87(2)(b) as the person who was forced to the ground and who he believed sustained a broken nose.

§ 87(2)(b)'s statement

§ 87(2)(b) who was at the intersection but did not know § 87(2)(b) and was not present with him, also observed two to three officers “beating” a rather large, White or Hispanic male who appeared to be handcuffed and struggling with the officers on the southern side of the street. § 87(2)(b) observed the male fall to the ground and then saw the officers shove his face into the ground, causing him to bleed from his mouth. The officers also punched the male on his back, torso, and sides. § 87(2)(b) observed this incident at a distance of 50 feet. The male was placed in handcuffs and led away to a marked police vehicle. § 87(2)(g) § 87(2)(b) observed a mounted officer and his horse fall to the ground. The horse fell on its right side and pinned the mounted officer’s leg underneath it.

§ 87(2)(b)'s Statements

§ 87(2)(b)'s initial statement regarding this incident can be found in the Ambulance Call Report (Enclosure 16a-16b) prepared by responding EMTs on February 15, 2003. § 87(2)(b) was examined by the EMTs at One Police Plaza. § 87(2)(b) stated to the responding EMTs that he “got a hoof to the head.” The EMTs indicated on the report that § 87(2)(b) complained of pain to his nose and that he sustained a fracture. The mechanism of the injury was “other” with “horse” written in by hand. § 87(2)(b) complained of pain to his head and nose. § 87(2)(b) was paraphrased as saying that he was attending the anti-war demonstration when he was hit in the head and face by a horse’s hoof. He did not report any loss of consciousness, nor any respiratory distress. Swelling to his nose with dried blood over both nostrils was noted.

§ 87(2)(b)'s second statement regarding this incident can be found in the medical records obtained from § 87(2)(b) (Enclosure 16c-16i), where § 87(2)(b) was treated on February 15, 2003 after being transported by the responding ambulance. § 87(2)(b) reported pain to his head and nose after having been kicked by a horse. He also alleged being stepped on by a horse and complained of pain to his right shoulder, nose and jaw. He was diagnosed as having a fractured nose and contusions.

In his CCRB statement (Enclosure 17-17k) taken on August 11, 2003 (the late date due to the insistence of § 87(2)(b)'s attorney, § 87(2)(b) Upton, that § 87(2)(b) refrain from giving a statement until the resolution of his criminal case), § 87(2)(b) indicated that he and his friends were standing near the southeast corner of the intersection at the front of the barricades. At one point, an unidentified protester (whom § 87(2)(b) described as being a White male with dreadlocks, 5’8” in his mid20s) tried to jump over the barricades. § 87(2)(b) who was three to four feet away, grabbed the male by the waist and tried to pull the male back into the crowd. The officers were trying to pull the male onto their side of the barricade. An officer then swung his fist at § 87(2)(b) hitting him directly on the nose and breaking it in the process. § 87(2)(b) described this officer as being a uniformed White male with red hair, a mustache, blue eyes, approximately 5’10” to 6’ and in his mid-30s (hereafter PO1); § 87(2)(b) believed that the officers’ name was “Harloff,” though he claimed that the police arrest report identified an officer as “Kukla.” § 87(2)(b) obtained the name “Harloff” because his friends saw what happened and recorded the officer’s name, providing it to § 87(2)(b) after the incident.

§ 87(2)(b) stumbled back and then swung at the officer but missed him. PO1 climbed over the barricade, grabbed § 87(2)(b) by his shirt, spun him around, and then, with the help of another officer who grabbed § 87(2)(b) by his waist and legs, forced § 87(2)(b) to the ground face first. His nose did not strike the ground; his left forehead did. § 87(2)(b) felt a knee bump into the right side of his temple. He was told to put his hands behind his head, which he did. One of the officers twisted his right arm, though § 87(2)(b) did not know who did this. PO1 put his chest onto § 87(2)(b)'s back and then put his left thumb into § 87(2)(b)'s left eye, asking him, "you like to swing on cops?" § 87(2)(b) then wrestled his hand out of the grasp of the officer, grabbed PO1's hand and pulled it away from his eye. § 87(2)(b) then felt several blows to his body as well as a "dropped knee" on his head. § 87(2)(b) was told to put his hands behind his back, which he did, at which time he was handcuffed. § 87(2)(b) admitted that he did not see PO1 doing any of this to him; he simply assumed that, because he tried to hit PO1 and missed, the officer who said "you like swinging on cops" was that same officer.

§ 87(2)(b) was then helped up by the officers and escorted to a police van with grates on the windows by two male officers; he could not describe these officers. During the escort, § 87(2)(b) yelled, "this is what happens at peace rallies." A young black officer stood outside of the van. § 87(2)(b) asked for medical attention and the black officer said, "just wait, just wait." The officer did not say anything else. After this, § 87(2)(b) spat blood onto the back of the driver's seat and kicked the door, asking again for medical attention. § 87(2)(b) then yelled, "listen you Uncle Tom ass motherfucker, can I have medical attention." The officer responded, "calm down, just wait." Three more civilians were placed in the van. He was eventually transported to One Police Plaza, where EMTs treated him for pain to his nose and head. He was then transported to § 87(2)(b) center and then released to the custody of a young, White male officer with blonde hair who escorted § 87(2)(b) to Central Booking and processed § 87(2)(b)'s arrest. § 87(2)(b) denied having an interaction with an officer on horse at the protest and was unaware of an officer falling to the ground off of a horse during the incident. At the end of the CCRB interview, § 87(2)(b) was shown a set of photographs of officers (Enclosure 17-17i) who were present at the location, though he could not identify any of the officers as subjects. § 87(2)(b) was also shown a photograph taken by § 87(2)(b) (Enclosure 17j) that depicts Sgt. Christopher McCormack escorting § 87(2)(b) in handcuffs, but § 87(2)(b) could not positively identify the sergeant as the officer who punched him.

Statements by § 87(2)(b) and § 87(2)(b) regarding physical force against § 87(2)(b)

§ 87(2)(b) was interviewed at the CCRB on September 4, 2003 (Enclosure 19-19p). § 87(2)(b) and friends spoke with the officers when one of the officers put his hand onto § 87(2)(b) chest, telling him, "get back onto the sidewalk," as the group tried to walk onto the street. § 87(2)(b) responded, "look, don't put your hands on me." The officer replied, "fuck you." Another group of civilians with cameras approached and § 87(2)(b) said to the officer, "why don't you come over here and say what you just said to me." The officer did not do this. § 87(2)(b) described the officer as being "Irish," a "big, Irish guy" with red hair, pale skin, blue eyes and no facial hair. He was not wearing glasses. § 87(2)(b) estimated the officer (hereafter PO1) to be 30 years old.

§ 87(2)(b) reiterated § 87(2)(b)'s claim that an unidentified, young, "thin" White male with brown hair tried to slip through the side of the barricades by moving the barricade. Uniformed officers grabbed the civilian. § 87(2)(b) and about 3-4 other protesters then grabbed the male and pulled him back. While this occurred, there was no physical confrontation between the officers and the civilians. At that point, somebody lifted the barricade, though § 87(2)(b) did not know who did this. The horse of a mounted Black officer on the other side of the barricade started "freaking out" and it was at this point that "all hell broke loose." § 87(2)(b) was trying to pull the unidentified male back when several of the officers, including PO1, ran towards § 87(2)(b). One of the officers, a uniformed White male, grabbed § 87(2)(b) from behind. § 87(2)(b) then shrugged the officer off of him by moving his shoulder. § 87(2)(b) did not see § 87(2)(b) hit this officer or strike him with his "shrug." Three to four other officers then rushed § 87(2)(b). One of the officers, a short, White male with dark hair, punched § 87(2)(b) (with his right hand) on the left side of § 87(2)(b)'s face when he was hunched towards the ground. § 87(2)(b) described the punch as "grazing" § 87(2)(b)'s face, not a direct hit. Upon further questioning, § 87(2)(b) recalled one officer hitting § 87(2)(b) on his arm near the shoulder and § 87(2)(b) pushing the officer back in response before the officers rushed at him. § 87(2)(b) girlfriend, § 87(2)(b) then rushed out into the street and he followed her out of concern for her safety; as a result, he did not see what happened next to § 87(2)(b). However, after an unidentified officer started spraying pepper spray, § 87(2)(b) looked back to § 87(2)(b) and noticed a

couple of officers pulling § 87(2)(b) back into the street. § 87(2)(b) was looking at § 87(2)(b) when another officer, described as a tall, White male with no facial hair (PO2), ran up and punched § 87(2)(b) directly in the face, hitting § 87(2)(b) square on the nose. § 87(2)(b) was then put onto the ground on his side and was bleeding from his mouth. § 87(2)(b) was about ten feet away when this happened. § 87(2)(b) did not know if § 87(2)(b) was handcuffed at this time. § 87(2)(b) tried to get over to where § 87(2)(b) was, as § 87(2)(b) was very upset. § 87(2)(b) was then grabbed by two officers, (one a female and one a male wearing a gold badge) who pulled him to the western side of the avenue. § 87(2)(b) yelled that he was a friend of § 87(2)(b) the officers just asked that he calm down and informed him that they would be taking § 87(2)(b) to a precinct nearby. § 87(2)(b) did not have a complaint against these officers and stated that they were actually nice to him.

§ 87(2)(b) was shown 12 photographs of officers assigned to the intersection of 52nd Street and 2nd Avenue (Enclosure 19c-19p). § 87(2)(b) claimed that the officer in photograph three (PO Harloff) punched § 87(2)(b) when he was being pulled into the street and that he was the same officer who said, “fuck you” to § 87(2)(b).

§ 87(2)(b) *Statement*

§ 87(2)(b) was interviewed at the CCRB on September 4th, 2003 (Enclosure 20-20o). At the location of incident, § 87(2)(b) and § 87(2)(b) decided to just go through the barricade. § 87(2)(b) pleaded with one of the officers at the barricade, requesting that they let them through, but that officer and other officers responded that they would be arrested if they broke through the barricades. She asked § 87(2)(b) to get the officer’s name. She believed that the officer’s name was “Moell” or “Modell.” He had dark hair, pale, average height, not too tall, in his mid 30s, no facial hair (PO3).

§ 87(2)(b) recounted § 87(2)(b)’s claim that an unidentified male tried to go through the barricade but was grabbed by the officers and placed on the ground. Upon further questioning, though, § 87(2)(b) admitted that she did not witness this, but was told of it by other people at the scene. § 87(2)(b) recalled the mounted officers moving on their horses and she lost her glasses, which impaired her vision. § 87(2)(b) grabbed and pulled her out of the street. § 87(2)(b) then became worried about § 87(2)(b) and feared that he would be arrested. She characterized him as “guilty of being humongous.” Several officers from the barricade then approached § 87(2)(b) who was standing in the street; she estimated that there were approximately 6 officers. § 87(2)(b) jumped on top of § 87(2)(b) and “hugged” him on the front of his body. She felt that the officers were coming towards him and jumped onto § 87(2)(b) hoping that it might deter the officers from using force against § 87(2)(b). She ultimately got “ripped apart” from § 87(2)(b) though she did not know what caused this. However, upon further questioning, § 87(2)(b) explained that she let go of § 87(2)(b) because she felt that the officers were no longer concerned with § 87(2)(b). Nothing happened after this and § 87(2)(b) went to find § 87(2)(b). § 87(2)(b) never saw an officer punch § 87(2)(b). At this point, § 87(2)(b) was struck with pepper spray (discussed in a separate paragraph) and approached an officer to help her find her glasses, which somehow he did.

She then saw § 87(2)(b) face down on the ground with three officers placing their knees on him, but she did not see what brought him to the ground. She approached to see what was happening and she leaned low to the ground, noticing blood on the ground near § 87(2)(b) and on his face. § 87(2)(b) later stated that the officers were pushing § 87(2)(b)’s face down while § 87(2)(b) moved his head. § 87(2)(b) then regrouped with § 87(2)(b) and they left. Photographs were shown to § 87(2)(b) during the interview, though she could not identify any of the officers depicted as being involved in any of the alleged misconduct.

§ 87(2)(b) *s statement*

§ 87(2)(b) was interviewed at the CCRB on September 26th, 2003 (Enclosure 21-21p). According to § 87(2)(b) there were approximately 40 people on the southeastern corner after having been herded there by the mounted officers. § 87(2)(b) and § 87(2)(b) were holding hands and § 87(2)(b) faced the horses while § 87(2)(b) was facing the officers at the barricade. At one point, § 87(2)(b) let go of her hand; she turned and saw § 87(2)(b) running towards a barricade, where there were two Black officers posted. § 87(2)(b) had no idea what was happening at this time, other than to say that the horses and the crowd were “going nuts.” § 87(2)(b) recalled a horse’s legs coming up into the air with its legs next to her head and so she fled from the intersection; the horse’s legs never struck her. § 87(2)(b) did not know what was happening at the barricade, but noticed several people pushing past the barricade. § 87(2)(b) did not see any officers punch § 87(2)(b) at the barricade, nor did she see him struggling with any officers.

After this, § 87(2)(b) ran away from the intersection towards the police vehicles parked further north up the avenue. She claimed that mace was being used in the intersection. After running, she saw approximately 3-4 White male uniformed police officers holding § 87(2)(b) while he stood. § 87(2)(b) walked further away from the intersection and when she was about half a block from the intersection, she looked back and saw § 87(2)(b) facedown on the ground with an officer holding him there with a knee on his back; he also had something on his head, though § 87(2)(b) could not describe what it was. She did not see how he ended up on the ground. § 87(2)(b) observed that § 87(2)(b)'s face was bleeding, but she did not see what caused this. There was only one officer holding § 87(2)(b) by his upper body to the ground and the officer was holding § 87(2)(b) somewhere on his upper body. Several officers who were standing near § 87(2)(b) then picked him up by his arms and escorted him to an SUV. She described the officers in the following way: both had "dark features," one was a thin White male and the other one was heavier with dark hair. § 87(2)(b) tried to get to § 87(2)(b) though an officer prevented her by standing in her way and pushing her back; the officers also told her, "get away." § 87(2)(b) then asked the officer to give § 87(2)(b)'s belongings that were in his pockets. § 87(2)(b) sat in the SUV for a little while and was mouthing to § 87(2)(b) "I'm okay." He seemed alert to § 87(2)(b). § 87(2)(b) also asked the officers for § 87(2)(b)'s belongings because he was carrying her identification with him. The "fat" male officer pushed § 87(2)(b) when she tried to touch § 87(2)(b). After this, the officer became nicer and helped look for § 87(2)(b)'s belongings in § 87(2)(b)'s pockets with the "skinny" White male to give to § 87(2)(b). The officer pushed her on the shoulder. Prior to being placed in the SUV, § 87(2)(b) was yelling, "My name is § 87(2)(b) and this is what happens to you..." or something to that effect.

§ 87(2)(b) called § 87(2)(b)'s father and met him at St. Patrick's Church. The two of them went to Central Booking to find out what was to come of the arrest, at which time they interacted with an officer who spoke discourteously towards § 87(2)(b). § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)'s statement regarding § 87(2)(b)

§ 87(2)(b) was interviewed at the CCRB on December 16, 2003 (Enclosure 22-22b). EMT § 87(2)(b) was listed on the ambulance call report as one of the responding EMTs who treated § 87(2)(b). However, EMT § 87(2)(b) could not recall treating § 87(2)(b) and his statement was simply based on reading the ambulance call report. EMT § 87(2)(b) indicated that had the individual complained of being punched in the face, it would have been noted on the ambulance call report.

EMT § 87(2)(b)'s partner prepared the ACR, though he was able to interpret what his partner wrote in the narrative section. He interpreted one section as stating, "hit in the head and face by horse's hoof."

Pepper Spray allegation

The following civilians alleged that pepper spray was used: § 87(2)(b) and § 87(2)(b). Of these civilians, four of them claimed to have been affected by the pepper spray: § 87(2)(b) and § 87(2)(b).

According to § 87(2)(b) (Enclosure 11-11d), an unidentified male officer began spraying pepper spray into the crowd in a completely "uncontrolled manner." It did not appear to strike very many people's faces, though § 87(2)(b) was hit on the face with it. § 87(2)(b) estimated that the officer sprayed for 3-4 seconds and that he sprayed it directly into the face of an unidentified male standing next to § 87(2)(b) which is why § 87(2)(b) felt the effects of it. § 87(2)(b) described the unidentified male as a White or Hispanic male, approximately 5'8" with a slight build. After spraying the pepper spray, the officer walked away without arresting the individual or instructing other officers to arrest him. § 87(2)(b) went and found water to rinse his face and that of the other individual. § 87(2)(b) saw the same White or Hispanic male five minutes later and was informed that the individual was going to be taken to an ambulance to get treatment. § 87(2)(b) described the officer who used pepper spray as a White male wearing a windbreaker with a badge around his neck. § 87(2)(b) stated that he would not be able to identify the officer from a photograph. After this, the police then allowed people to walk through the barricade to 1st Avenue, which § 87(2)(b) did along with § 87(2)(b). During the chaos, § 87(2)(b) and § 87(2)(b) got separated. § 87(2)(b) estimated that the entire incident lasted no more than five minutes. During his photographic array (Enclosure 12-12o), § 87(2)(b) indicated that he met the target of the pepper spray at a school party and identified him as § 87(2)(b).

According to § 87(2)(b) (Enclosure 14-14b), pepper spray was used after the intersection “erupted into chaos.” § 87(2)(b) did not see any officers use pepper spray, but believed that it was used, as she felt pepper spray on the left side of her face. Once she felt this, § 87(2)(b) ducked to the ground and then walked to the sidewalk out of the intersection. § 87(2)(b) had separated from § 87(2)(b) during the chaos and looked for him after being hit with pepper spray, at which time she learned that he too had felt the effects of pepper spray. The two of them entered a restaurant and washed their faces. They never sought medical treatment.

According to § 87(2)(b) (Enclosure 15a-15d), a uniformed officer (he could provide no further details about the officer) started spraying pepper spray into the air in the vicinity of the southeast corner of 52nd Street and 2nd Avenue after the intersection after the protesters dispersed to the four corners of the street. § 87(2)(b) felt a light sprinkle on the left side of his face and an ensuing burning sensation, though § 87(2)(b) did not characterize it as being “severe.” He reiterated that he and § 87(2)(b) washed their faces in a restaurant bathroom, but they did not seek medical attention.

According to § 87(2)(b) (Enclosure 19-19p), a uniformed, short, skinny male officer (not Black) started spraying pepper spray into the crowd after the officers and protesters started struggling with each other at the barricades. § 87(2)(b) claimed that the officer was running around and spraying mace everywhere. § 87(2)(b) was not affected by the pepper spray.

According to § 87(2)(b) (Enclosure 20-20o), a police officer in the middle of the street started spraying pepper spray after she separated from § 87(2)(b) during his physical encounter with the officers at the barricades. § 87(2)(b) was trying to find her glasses, which had been knocked off when the officer in question approached § 87(2)(b) and sprayed the pepper spray on the left side of her face, mostly striking her ear. She described the officer as a short, White male with brownish-blond, very pale skin, no facial hair; she estimated his height to be about 5’3”, in his 40s. When describing his uniform, though, she indicated that he was not wearing a blue suit, but was instead wearing a brown suit. She believed that he was a police officer, though when asked why she thought this, she just stated that she “got the impression that he was a cop.” § 87(2)(b) claimed that the male was also spraying pepper spray into everybody else’s face for no reason. § 87(2)(b) did not wash her face, nor did she seek medical attention.

§ 87(2)(b) stated (Enclosure 21-21p) that she observed pepper spray in the air over the intersection after she had fled the intersection, but she did not feel the effects of it nor did she see who was discharging it.

The Unidentified Victim

§ 87(2)(b) one of § 87(2)(b)’s cousins who attended the demonstration with her, provided a telephone statement (Enclosure 13-13b) that was fairly consistent with the overall theme of the other civilian victims and witnesses interviewed. § 87(2)(b) lives in § 87(2)(b) and was unable to come to NYC to provide a formal statement). However, § 87(2)(b) alleged that after the intersection “erupted into chaos,” he returned to the intersection and observed a male officer lying on the ground with a riderless horse next to the officer. § 87(2)(b) also saw two individuals being held to the ground by several police officers, though he could not describe these individuals in any way, nor did he state that the officers were using physical force. § 87(2)(b) then looked to his left to a small group of protesters on the southeast corner of the intersection, where he observed five to six police officers yelling at the protesters. One of the officers – an unidentified White male in his late 30s – punched in a downward motion a short, young, dark-skinned (possibly Indian or Pakistani) male with long, curly black hair. § 87(2)(b) did not know where the punch landed. § 87(2)(b) was approximately 10 yards away from the incident when this occurred. After this, the whole crowd started screaming and police officers stepped back. A few other officers grabbed that young male and brought him into the intersection, though § 87(2)(b) indicated that this was a vague recollection.

§ 87(2)(b) later saw the same individual receiving medical treatment at an ambulance. § 87(2)(b) provided a photograph that she claimed depicted the individual § 87(2)(b) was talking about (Enclosure 6x, 6z, 6ba), though there was no identification of this individual and § 87(2)(b) did not know the name of the individual. He stated in his phone interview that the individual he saw punched was in a photograph provided by § 87(2)(b) though it was the photograph of an individual by an ambulance, not the photo depicting § 87(2)(b) being escorted by an officer.

§ 87(2)(b) (Enclosure 15a-15d) also described an incident roughly similar to this involving a young, possibly Asian male. § 87(2)(b) who was near the barricade, observed a uniformed, stocky, White male officer run up and strike the unidentified male “square on the nose.” § 87(2)(b) described the

civilian victim as being a short, thin light-skinned “Asian” male, 24-25 years of age; § 87(2)(b) could not recall the person’s hair color and could not recall whether the civilian had facial hair or eyeglasses. After being hit, the civilian fell backwards but then disappeared into the crowd. § 87(2)(b) estimated that this incident occurred approximately 5 feet away from him on the southern side of the barricade. However, § 87(2)(b) s statement indicated the this incident occurred prior to the intersection dispersing, whereas § 87(2)(b) indicated that he observed the person being struck in the face after the crowd had dispersed.

§ 87(2)(b) s attempt to obtain names and shield numbers

According to § 87(2)(b) (Enclosure 14-14b), she, § 87(2)(b) and § 87(2)(b) s friend § 87(2)(b) made their way to 1st Avenue for the demonstration after getting through the barricades on 52nd Street and 2nd Avenue. They remained at the rally for about a half-hour, after which they returned to 52nd Street and 2nd Avenue. § 87(2)(b) and § 87(2)(b) wrote down a number of officers’ names, specifically, PO “Harloff.” § 87(2)(b) claimed that she asked PO Harloff for his name but he walked away without providing it; she obtained his name because other protesters had pointed out the officer and said his name. She described PO Harloff as being a White male with facial hair, brownish-light brown hair, medium build, glasses, in uniform, but not with a helmet. The names that she did obtain she could not recall at the time of her interview. In a telephone interview conducted with § 87(2)(b) on February 25, 2003 (Enclosure 5-5a), § 87(2)(b) listed the following officers who provided their names and shield numbers to § 87(2)(b) as relayed by § 87(2)(b) to § 87(2)(b) Modell 31385, Williamson 25014, McCormick 4279, Fontana 25315, and an unidentified officer with shield 12475 (assigned to PO Jose Salgado of the 43rd Precinct, who was not listed on the Detail Roster).

§ 87(2)(b) s statement regarding minor physical force against herself

§ 87(2)(b) stated (Enclosure 21-21p) that after § 87(2)(b) was arrested and escorted to a marked SUV, she approached the SUV in order to try to speak to § 87(2)(b) who had her identification. § 87(2)(b) was escorted by a “skinny” White male officer and “fat,” White male officer. As § 87(2)(b) drew near to § 87(2)(b) the unidentified “fat” male officer pushed her on her shoulder, preventing her from getting close to § 87(2)(b). § 87(2)(b) neither sustained an injury nor fell down. She told the officers that she was just trying to get her identification from § 87(2)(b). After this, the fat officer “got nicer” and helped look for § 87(2)(b) s belongings in § 87(2)(b) s pockets, eventually providing her with the identification.

Medical Records

According to the Ambulance Call Report (Enclosure 16a-16b), § 87(2)(b) was examined by the EMTs at One Police Plaza. § 87(2)(b) stated to the responding EMTs that he “got a hoof to the head.” The EMTs indicated on the report that § 87(2)(b) complained of pain to his nose and that he sustained a fracture. The mechanism of the injury was “other” with “horse” written in by hand. § 87(2)(b) complained of pain to his head and nose. § 87(2)(b) was paraphrased as saying that he was attending the anti-war demonstration when he was hit in the head and face by a horse’s hoof. He did not report any loss of consciousness, nor any respiratory distress. Swelling to his nose with dried blood over both nostrils was noted.

According to § 87(2)(b) s medical records from § 87(2)(b) (Enclosure 16c-16i), § 87(2)(b) was treated on § 87(2)(b) after being transported by the responding ambulance. § 87(2)(b) reported pain to his head and nose after being kicked by a horse. He also alleged to being stepped on by a horse and complained of pain to his right shoulder, nose and jaw. The attending nurse’s notes indicated that his nose was swollen and that he had abrasions to the right side of his face. The attending doctor’s notes indicated “injury to face, kicked and stepped on, complained of pain to right shoulder, nose and jaw. No loss of consciousness and no vomiting.” He was diagnosed as having a fractured nose and contusions and released to the police.

NYPD Records

A detail roster for the intersection (Enclosure 38-38b) identified the following officers as assigned to duty: Sgt. Christopher McCormack of the 44th Precinct was the supervising officer; PO William Sommer; PO Frank Anello; PO Daniel Rios; PO James; PO Harloff; PO Christopher Koenke; PO Kevin Adams; PO Malik Williamson; PO Barry Parker; and PO Steven Fontana.

According to a DAU Liaison Unit check of aided reports (Enclosure 40-40w), there were no aided reports prepared for civilians at this intersection. The only aided reports were for police officers.

There was no SPRINT report for incidents at this location.

An aided card (Enclosure 31a) was prepared regarding PO Adams, indicating that “while trying to subdue violent demonstrator, aided MOS injured right knee.” PO Malik Williamson provided a witness statement (Enclosure 29a) regarding PO Adams’ injury. PO Williamson stated, “at time and place of occurrence, I did see PO Adams at the anti-war protest fall on his knees while trying to prevent a demonstrator from pulling a mounted officer off horse at detail. This act took place on the corner of 52nd Street and 2nd Avenue, assigned to Post 504 for anti-war demonstration.”

A line-of-duty injury report regarding PO Kevin Adams (Enclosure 29a) indicated that he was injured at the location of incident, sustaining a sprained right knee. PO Adams sought medical treatment at Bellevue hospital, where he was seen by Dr. Jamshashi. On the report, PO Adams stated the following: “at time and place of occurrence, I was assigned to Post 504 for anti-war demonstration in the confines of the 17th Precinct. I observed a male white trying to pull a mounted officer off his horse. I assisted Sgt. McCormick (*sic*) of the 44 Precinct in subduing the male, who violently resisted arrest. I twisted my right knee during the course of helping to assist officers handcuffing the male suspect.” Lt. Minogue signed the report and approved PO Adams’ line-of-duty status.

An aided card (Enclosure 23b-23c) was also prepared for Sgt. McCormack, indicating that he was “struck in the head with a fist causing a small contusion on the nose and pain to head. Aided also suffered ligament damage to left hand while attempting to place a prisoner under arrest.” Inspector Neil Spadaro provided a witness statement (Enclosure 26-26a) regarding Sgt. McCormack’s injury: “Sgt. McCormack was assigned to the anti-war demonstration at 52nd Street and 2nd Avenue at above time and place when he injured his right [illegible] while effecting an arrest of a protester. The protester refused to be handcuffed and did resist in a violent manner.”

A line-of-duty injury report regarding Sgt. McCormack (Enclosure 26-26a) indicated that he was injured at the location of incident, sustaining a “small abrasion to nose and substantial pain.” According to the report, Sgt. McCormack also sustained “sprained ligaments to his left hand while attempting to restrain and cuff prisoner.” Sgt. McCormack sought treatment at § 87(2)(b) and § 87(2)(b) treated him. The report indicated that Sgt. McCormack sustained his injuries from being kicked and punched.

There was no TARU footage of this incident/intersection.

General Officer Statements

All of the officers interviewed essentially agreed on the following: Barricades were established on the eastern side of the intersection and extended onto the sidewalks. The officers at the barricades were not allowing protesters through the barricades, but were instead telling the protesters to continue walking north until they reached an open street. The majority of the officers indicated that at one point during the day, protesters attempted to breach the barricades or attempted to move the barricades. Mounted Unit officers responded to the location due to the large number of protesters and one of the Mounted Unit officers fell from his horse. Most of the officers also stated that arrests were made in the intersection at this time; PO Rios and PO Modell claimed that they did not observe any arrests. The following officers admitted to assisting the arrest of § 87(2)(b) Sgt. McCormack, DI Spadaro, and PO Adams. PO Sommer claimed that he assisted in pulling an unidentified male off of Sgt. McCormack’s back during the arrest. All of the officers denied using pepper spray, observing any other officers using pepper spray, or feeling the effects of pepper spray. Several of the officers confirmed that PO Adams injured his knee during this incident.

Subject Officer Statement – Sgt. McCormack

Sgt. Christopher McCormack was interviewed at the CCRB on November 21st, 2003 (Enclosure 23d-23f). He had no memo book entries other than being “on post” and “at post.” He was present at the detail at 6AM and was dismissed from the detail at 2000. At that time, he was en route to § 87(2)(b). He ended his tour at 0127. Sgt. McCormack indicated that he went to the hospital because of an injury he sustained during this incident.

According to Sgt. McCormack, there were three or four “huge flare-ups” that occurred over the course of the day but he did not recall what time these incidents occurred. Sgt. McCormack’s attention was directed to § 87(2)(b)’s arrest and when informed that § 87(2)(b) was an alleged victim in this complaint, Sgt. McCormack stated, “sorry, I’m the victim, he’s a perpetrator.” Sgt. McCormack recognized § 87(2)(b) from his arrest photograph. Sgt. McCormack confirmed that he was involved in § 87(2)(b)’s arrest and relayed the following.

The sergeant stated that at about the time of § 87(2)(b)’s arrest, there were approximately 5,000 protesters trying to run through the barriers that had been established at 52nd Street and 2nd Avenue in an

effort to get to 1st Avenue. There were only nine officers (Sgt. McCormack included) at the barrier. As a result, Sgt. McCormack called a level one mobilization via radio, as he found that he was overwhelmed. He also contacted his Inspector to have the Mounted Unit come to the location. Protesters were trying to “ram” through barriers. Sgt. McCormack and the officers were standing on the eastern side of the barricade.

When the Mounted Unit arrived, Sgt. McCormack placed two of the horses up against the barriers. From a distance of four feet, Sgt. McCormack observed § 87(2)(b) punch one of the horses and then shove a barrier against one of the horses, causing the horse to back up and its rider to fall. Sgt. McCormack did not know if § 87(2)(b) spoke to him or the officers at the barricade immediately prior to this, stating that he had so many people there that he could not remember. Sgt. McCormack approached § 87(2)(b) in order to arrest him, when § 87(2)(b) punched him on the forehead, knocking the sergeant’s hat to the ground; the sergeant did not sustain an injury. Sgt. McCormack reached over the barricade to grab § 87(2)(b) in order to pull him onto the officers’ side of the barricade. Sgt. McCormack did not know if he made contact with § 87(2)(b)’s head or jacket; he also indicated that it was just a grabbing motion, he was not trying to punch § 87(2)(b). Sgt. McCormack did not know if he made contact with § 87(2)(b)’s nose.

Sgt. McCormack then came over the barricade to get to § 87(2)(b). Meanwhile, civilians were trying to do the same in the opposite direction. Sgt. McCormack did not sustain an injury from the punch. At this point, the barriers fell down. Sgt. McCormack and his officers along with Inspector Neil Spadaro then went into the crowd to apprehend § 87(2)(b) when one of the Mounted Officers fell off his horse and was dragged, sustaining an injury as a result of this. § 87(2)(b) fought with the officers by throwing punches and waving his hands, refusing to be handcuffed. Sgt. McCormack denied that any officers pulled § 87(2)(b)’s arms behind his back, claiming that § 87(2)(b) refused to allow his hands to be brought behind his back. Sgt. McCormack denied that two officers restrained § 87(2)(b) and that an officer then punched § 87(2)(b) in the face. When asked if he ever grabbed § 87(2)(b) by the front of his collar, Sgt. McCormack stated that he may have done that in an effort to get § 87(2)(b) to the ground, though he could not recall specifically where he grabbed § 87(2)(b).

Sgt. McCormack and Inspector Spadaro grabbed § 87(2)(b) and forced him to the ground. Sgt. McCormack did not know how the officers got § 87(2)(b) to the ground, but he denied ever trying to punch § 87(2)(b). Sgt. McCormack also did not know who the assisting officers were.

Once § 87(2)(b) was on the ground, he was handcuffed. § 87(2)(b) continued struggling and Sgt. McCormack did not know if any officers held § 87(2)(b) to the ground by placing their knees or legs on his body. He admitted to trying to grab § 87(2)(b)’s hands to pull them behind § 87(2)(b)’s back. Regarding his own injury, Sgt. McCormack indicated that he sprained one of his thumbs, but he did not know how this happened and could not recall which hand the thumb was on. He believed that he injured the thumb while wrestling with § 87(2)(b) though he could not pinpoint at what point he sprained the thumb. He denied that § 87(2)(b) was wrestling with his hand or any other officers’ hands. He also denied ever putting his finger into one of § 87(2)(b)’s eye or seeing any other officers do so. Sgt. McCormack reflected upon this further when shown one of § 87(2)(b)’s photos that depicted the sergeant escorting § 87(2)(b). Sgt. McCormack noted that if a person had put a finger into § 87(2)(b)’s eyes, then it would seem unlikely that he would have his eyes open, as depicted in the photograph.

Once § 87(2)(b) was handcuffed, Sgt. McCormack escorted him to a prisoner van. He then returned to his post and remained there until 8PM. While there, Sgt. McCormack made sure that his officers were okay, that officers were assigned with injured officers, and that the post was secured. Sgt. McCormack contacted Mounted supervisors regarding the injured Mounted Officers as well as the horse that had no rider. Sgt. McCormack also called for an ambulance, which had to go through the crowd to get to the intersection. At 8PM, Sgt. McCormack sought medical treatment at § 87(2)(b). X-rays were taken, though nothing was shown. His thumb was wrapped up and he was given ice. He did not know if he went line of duty as a result of this incident. He did not go see a private doctor regarding this injury.

Subject Officer Statement – PO Harloff

PO Paul Harloff was interviewed at the CCRB on November 24th, 2003 (Enclosure 24b-24c). PO Harloff was assigned to the northeast corner of 52nd Street and 2nd Avenue in Manhattan. He had no memo book entries for this incident or any incident around the time of 3:30 PM.

PO Harloff recalled arrests being made at 3:30 PM. According to his memory, the officers closed the street due to the protest being filled on 1st Avenue. When they did this, a lot of the protesters became irate and disorderly by trying to climb over the barricade or going underneath the barricades. People were also pushing the barricades back, and the officers responded by pushing the barricades back to where they

had initially been. An unidentified officer requested that the Mounted Unit respond in order to disperse the crowd and approximately five Mounted Unit officers responded. PO Harloff could not recall if any civilians tried to pull the barricade to open it up. PO Harloff denied using profanity or directing profanity at any of the protesters during this incident.

Upon responding, one of the Mounted Unit officers fell to the ground when an unidentified civilian, described as being a White male, approximately 6'2" tall, ran towards the horse. PO Harloff did not know what caused the officer to fall to the ground. The civilian was arrested, though PO Harloff was not involved in the arrest of the civilian who ran to the horse, nor did he see the arrest itself due to all of the protesters in front of him. PO Harloff claimed to have remained at his post.

Other arrests were made, as the crowd was still disorderly. PO Harloff claimed that he "held the barricade." PO Harloff believed that PO Sommer made an arrest at the scene, though he was not sure. PO Harloff recalled going over the barricade once to arrest an individual, though he did not recall what caused this. He indicated that he only assisted in handcuffing a civilian, though he did not recall who he was assisting. He did not sustain any injuries during this tour. PO Harloff denied that during the arrest, he held the individual's arms while another officer punched the male in the face. PO Harloff believed that force was used to effect the arrest in an effort to get the civilian to the ground so as to handcuff the individual. He did not recall how the individual got to the ground. It was not a long struggle. PO Harloff believed that he was assisting 5-6 other officers, though he was not sure if Sgt. McCormack was one of them. He believed that the arrest occurred on the northeast corner, though he was not entirely certain. PO Harloff did not recognize § 87(2)(b) from his arrest photograph as the individual he was assisting in arresting. PO Harloff denied that any civilians tried to punch him. He did not see any civilians trying to punch any officers, nor did he see any officers trying to punch a civilian.

PO Harloff admitted that at one point, protesters overran the barricade and the officers had to just let the protesters through. He recalled this occurring after the one civilian and Mounted Unit officer ended up on the ground. The officers reestablished the barricade because a lot of the protesters were able to get through, which eased up the conditions. They then reestablished the barricade and secured the corner. PO Harloff could not recall if any females approached and asked him for his name and shield.

Subject Officer Statement – PO Tsoukias

PO Paul Tsoukias was interviewed at the CCRB on November 26th, 2003 (Enclosure 25b-25c). PO Tsoukias was assigned to a Mobile Response Unit for the demonstration. Sgt. Anthony Lacca was his supervisor; PO Tsoukias had never worked with this sergeant prior to this date. He believed that PO Humplich and PO Plate from the 105th Precinct were also with him. He had no memo book entries pertaining to this entry.

According to PO Tsoukias, he was in the vicinity of 52nd Street and 2nd Avenue at the time of 3:30 PM in response to either an 85 or 10-13 call regarding a large, disorderly group on the corner. He estimated that the group was approximately 100 civilians. Upon arrival, an unidentified supervisor (in a white shirt) directed PO Tsoukias as well as the other officers in the van to clear the street. PO Tsoukias gave a verbal order to a young, White female in the middle lane of the street, though she cursed at him, telling him that she did not have to clear the street. He approached and gave her a second verbal warning to get onto the sidewalk. He went towards the woman with his nightstick in front of him, holding it at both ends with his hands. The woman refused to get back onto the sidewalk and PO Tsoukias "nudged" the woman with his nightstick, at which time she grabbed his nightstick. The two started wrestling for his nightstick and several other officers came to the scene to assist PO Tsoukias in handcuffing the female. The two of them ended up on the ground, at which time PO Tsoukias was able to handcuff the woman. While this was occurring, a second protester – a White male – tackled the officers. The second protester was subsequently arrested. PO Tsoukias believed that there were 3-4 officers trying to handcuff the female when the White male tackled all of the officers, knocking them all to the ground. PO Tsoukias also assisted in handcuffing that male. PO Tsoukias did not record the names of these arrests, as he was not the arresting officer. He did not know the exact time of these arrests.

PO Tsoukias was winded from this incident, caught his breath, and then took his post again. The crowd seemed to disperse itself at that moment and PO Tsoukias had no further arrest incidents. PO Tsoukias never felt the effects of pepper spray. He denied using pepper spray and he did not see any officers using pepper spray at the intersection. PO Tsoukias had a couple of scrapes and bruises on his knees, though he never went line of duty.

Subject Officer Statement – Inspector Spadaro

Inspector Neil Spadaro was interviewed at the CCRB on December 10th, 2003 (Enclosure 26b-26c). Inspector Spadaro was a zone commander, in uniform on the date of incident, and does not keep a memo book. Inspector Spadaro spent most of his time on 2nd Avenue because 1st Avenue had filled up with protesters. Inspector Spadaro also explained that he went to 2nd Avenue to see if he could assist regarding the large crowds that had gathered there.

According to the inspector, he was standing in the center of the intersection looking westbound when he heard yelling behind him on the eastern side. Inspector Spadaro turned around and observed a group of officers grappling with a guy and tackling him to the ground. Several of the officers fell to the ground as well, as the civilian was resisting by swinging at the cops and bucking with them. Inspector Spadaro did not see any officers punch the civilian in the face at this time. Sgt. McCormack was one of the officers grappling with the individual and Inspector Spadaro approached in an effort to assist them, due to the ensuing pandemonium. Sgt. McCormack was trying to handcuff a civilian who was laying facedown on the ground and Inspector Spadaro assisted him by pulling one of his arms out from under his body. There were four to five other unidentified officers trying to handcuff the male. After struggling with the male for approximately two minutes, the officers got the individual cuffed and stood him up. Inspector Spadaro described the civilian as being “very big and strong.” Inspector Spadaro also recalled the individual bleeding somewhere on his head, though he could not recall if it was his mouth or nose. Inspector Spadaro denied seeing Sgt. McCormack ever place one of his fingers into the civilian’s eyes, nor did the inspector observe any officers do this. The inspector denied placing his knee on the top of the civilian’s head and denied that Sgt. McCormack or any other officers did so.

Afterwards, Inspector Spadaro spoke with Sgt. McCormack, who told him that the guy either punched or hit a police horse with an object and that as the officers went to arrest him, the civilian punched Sgt. McCormack in the face. Inspector Spadaro did not observe this, he only heard the commotion. Inspector Spadaro was not aware of any officers being injured during this incident, though he confirmed that Sgt. McCormack was injured in that he was punched in the face. Inspector Spadaro denied speaking with Sgt. McCormack at One Police Plaza later that night. Inspector Spadaro identified § 87(2)(b) from his arrest photograph as the individual whom he assisted in handcuffing.

Officer Statements – PO Rios

PO Daniel Rios was interviewed at the CCRB on October 27, 2003 (Enclosure 27b-27c). PO Rios could only recall working with PO Parker, PO Sommer, and PO Harloff. PO Rios had no memo book entries for this incident. PO Rios had no knowledge of this incident and did not assist in any arrests. He denied using pepper spray or feeling its effects.

PO Rios admitted to using force in order to push people back after the barricade had been compromised, specifically by standing at the front of the barricade and holding out his nightstick with two hands. PO Rios denied ever striking any of the protesters with his nightstick.

Officer Statement – PO Parker

PO Barry Parker was interviewed at the CCRB on October 27th, 2003 (Enclosure 28a-28b). PO Parker recalled working with PO Adams and PO Williamson. PO Parker had no memo book entries regarding this incident.

According to PO Parker, he and PO Adams were together on the northwest side of the intersection, though after thinking about it, he believed that they were stationed on the southeast side with PO Williamson. PO Parker recalled an unidentified male civilian, whom he described as “possibly White and 5’10”, grabbing and punching a Mounted Unit horse. In response to this, the sergeant from the 44th Precinct (PO Parker could not recall his name) “jumped on that person and arrested him.” The sergeant was to the left of the horse when he did this and PO Parker was to the right of the horse. An unidentified civilian then jumped on the sergeant to try and get him off of the other civilian who hit the horse; PO Parker did not see the sergeant ever getting punched in the face nor did he see the sergeant throw any punches. PO Parker went over and grabbed that person on his back and arms, causing him to let go of the sergeant. He did not see the person’s face, but he described the person as being “pretty big.” The two of them then broke loose from the sergeant and each other. The Mounted Unit horse fell down in the middle of the street, approximately 10-15 feet away from the barricade, causing the Mounted Unit officer to break his leg. PO Parker did not punch any civilians, nor did he arrest the individual whom he wrestled away from the sergeant or the individual who punched the horse, nor did he know what became of that person. PO Parker

did not recognize § 87(2)(b) from an arrest photograph as the individual whom the sergeant encountered. PO Parker denied that anybody asked him for his name and shield number. PO Parker believed that the whole incident lasted between 5 and 10 minutes.

Officer Statement – PO Williamson

PO Malik Williamson was interviewed at the CCRB on October 29th, 2003 (Enclosure 29c-29d). PO Williamson recalled working with PO Adams at that intersection, but had no memo book entries pertaining to this incident. When asked if anything outstanding occurred, PO Williamson explained that a horse fell to the ground, but he did not remember what caused the horse to fall. PO Williamson did not know what preceded this incident. After the horse fell, PO Williamson stayed at his post because he did not want to get hit by the horse. He observed PO Adams standing near the horse and falling to the ground. He did not know what caused PO Adams to fall. PO Williamson did not recall seeing anybody being arrested or handcuffed. He also did not recall seeing any officers grabbing civilians to prevent them from going through the barricade. PO Williamson did not recognize § 87(2)(b) from his arrest photograph. PO Williamson stated that he was unaware of anybody throwing objects at the officers on the barricade. PO Williamson denied ever being asked for his name and shield number after everything happened. PO Williamson was not assigned any arrests, nor did he assist anybody in making an arrest that day.

Officer Statements – PO Modell

PO Andrew Modell was interviewed at the CCRB on November 6th, 2003 (Enclosure 30b-30c). He did not have any memo book entries for this incident.

Regarding specific conversations such as people asking him for his name and shield number, PO Modell claimed that two women approached him at one point, took out a pad, and wrote down his name and shield. They did not ask him any questions, they simply said that they were “documenting police brutality.” PO Modell believed that this occurred earlier in the day at approximately 11 AM. He described the women as two young, White females. He believed that one of them was blonde. This was the only instance in which people asked for his shield number.

When asked if anything out of the ordinary occurred at the intersection, such as multiple arrests or unbridled chaos, PO Modell claimed that he had no knowledge of such activity. PO Modell denied that any protesters were trying to pull the barricade to the side or break through the barricade. PO Modell did not recognize § 87(2)(b) from his arrest photograph. PO Modell denied seeing any arrests or officers struggling with civilians at the intersection and he denied using any force against civilians. PO Modell denied being involved in any arrests that day. The only outstanding incident that he recalled was seeing an officer fall off of a horse, but he did not see what precipitated this. PO Modell assisted the Mounted Unit officer into an ambulance; he did not know the officer’s name. After assisting the mounted unit officer to the ambulance, he returned to his post. At one point, the barricades were moved in order to allow the protesters to move forward; PO Modell indicated that this was done because there were too many protesters.

Officer Statements – PO Adams

PO Kevin Adams was interviewed at the CCRB on November 7th, 2003 (Enclosure 31b-31d). PO Adams had the following entry: 1500 – assigned to Post 405. “I observe a large White male engaged in a violent conduct with mounted police officer, who was pulled. Officer was forced down to the ground and then Sgt. McCormack subdued the violent demonstrator, I sustained injuries to right knee, was transported to hospital by EMS, mounted police officer was injured to his left leg.”

According to PO Adams, when the crowd of protesters became large, the officers at the barricade – 8-12 total – requested response units as well as the mounted unit. PO Adams was standing near the southeast corner of the intersection in front of the barricade. Protesters started to grab the barricade and move it. At one point, one of the protesters struck Sgt. McCormack in the jaw, causing the sergeant’s head to jerk backward. PO Adams was approximately eight to ten feet away from the sergeant when this occurred. Sgt. McCormack went to grab this individual; PO Adams did not observe the sergeant punching the civilian and PO Adams denied himself punching this civilian. Several other unidentified officers assisted the sergeant by grabbing the civilian and forcing him to the ground onto the front of his body. PO Adams assisted by grabbing the individual by his arm and his shoulder. Once he was on the ground, the officers handcuffed the male. PO Adams described the individual as a White male, medium height,

medium-build, brunette/black hair; PO Adams recognized § 87(2)(b) from his arrest photograph, but PO Adams did not definitively identify § 87(2)(b) as the civilian that was arrested.

Once the initial arrest was made and secured, PO Adams then went to another arrest, where he observed a mounted unit officer turning his horse in order to move a crowd back. PO Adams was also going to start moving the crowd back, at which time he observed an unidentified woman (wearing a black trenchcoat with a slim build) jump on the back of an unidentified, White male uniformed officer. The officer then turned and grabbed her, forcing her to the ground. Another officer came over, as did PO Adams. PO Adams gave his handcuffs to the unidentified officers and handcuffed her. PO Adams was trying to hold the crowd back. This occurred in the middle of the street.

PO Adams then turned to his left to see what the horse was doing, at which time he saw the mounted officer on the ground with the horse. He saw § 87(2)(b) whom he described as “a big dude.” Several officers including PO Adams and Sgt. McCormack went over to assist the mounted unit officer and subdued § 87(2)(b) who was by the horse. § 87(2)(b) pushed and flailed his arms, as he did not want to be arrested. PO Adams grabbed § 87(2)(b) on what he believed was § 87(2)(b)'s left arm and another officer grabbed him on the arm. PO Adams believed that Sgt. McCormack also tried to grab him by the arms. The officers turned § 87(2)(b) took one leg and flipped § 87(2)(b) to the ground. § 87(2)(b)'s face did not strike the ground. Initially, § 87(2)(b) was lying on his side but the officers then turned him onto his stomach. § 87(2)(b) continued struggling and the officers forced his arms onto his back, at which time they handcuffed him. PO Adams did not see § 87(2)(b) punching any of the officers; he was just “flailing his arms.” PO Adams denied that Sgt. McCormack punched § 87(2)(b) in the face, that any other officers punched § 87(2)(b) in the face, and denied that he himself punched § 87(2)(b) in the face. PO Adams denied ever twisting § 87(2)(b)'s thumb and PO Adams could not recall him crying out in pain. PO Adams did not see the sergeant put his finger into § 87(2)(b)'s eye, nor did he see any other officers do so. PO Adams denied that he, Sgt. McCormack, or any officers placed their knees on top of § 87(2)(b)'s head. PO Adams believed that he injured his knee as he was going to assist the mounted unit officer, prior to his interaction with § 87(2)(b). PO Adams explained that his knee popped out and he felt the pain, but because of everything going on, he just continued. Upon further questioning, PO Adams explained that he did not know exactly when this injury happened.

After § 87(2)(b) was handcuffed, the officers picked him up and placed him in the SUV. PO Adams did not observe any injuries to § 87(2)(b). PO Adams then moved away because he saw a White male wearing a trench coat, “talking junk.” A couple of other officers and he went to this male and handcuffed him. PO Adams explained that he assisted in handcuffing protesters, but he did not escort them to vehicles.

About two to three minutes after this, the intersection calmed down. PO Adams told the sergeant that he was injured and the sergeant told him to get medical treatment. This was when the officers were helping the mounted unit officer to an ambulance that was at the scene. PO Adams went into the ambulance and was taken to § 87(2)(b). He was diagnosed as having a swollen knee, but the doctors did not detect fractures. He went line of duty for approximately 6 months after the incident. At the time of the interview, he was placed on restricted duty. PO Adams was told that he needed to get reconstructive surgery for his anterior cruciate ligament.

Officer Statements – PO Anello

PO Frank Anello was interviewed at the CCRB on November 7th, 2003 (Enclosure 32b-32c). PO Anello had no entries pertaining to an incident at 3 PM. He had memo book entries indicating that he made two arrests § 87(2)(b) and § 87(2)(b) at the corner of 52nd Street and 2nd Avenue at 2:20 PM. He processed the arrests at 1 Police Plaza. PO Anello indicated that after he made the arrests, the arrestees were put in “the wagon” and then he waited for the wagon to fill up with more arrests. PO Anello indicated that this police vehicle was parked halfway up the block from the intersection and he did not return to his post after making these arrests. Once the police vehicle was filled with prisoners, PO Anello went to 1 Police Plaza to process his arrests. He did not know how long he remained at 52nd Street and 2nd Avenue. PO Anello had no knowledge of any incidents that occurred at 3 PM that day.

Officer Statements – PO Koenke

PO Christopher Koenke was interviewed at the CCRB on November 7th, 2003 (Enclosure 33c-33d). He had no entries in his memo book pertaining to this incident. PO Koenke confirmed that he was posted at the southeast corner of the intersection.

PO Koenke recalled a horse being hit that day near the southeast corner of the intersection; the officer on the horse fell to the ground and “smacked his head.” PO Koenke only heard the horse's shoes

scraping along the street and the officer's helmet hitting the ground. He also believed that the horse fell onto the officer. PO Koenke responded to the mounted officer and assisted him, picking him up along with another unidentified officer and then walking him to an ambulance. PO Koenke then went back and got the horse, which he walked onto 52nd Street between 1st and 2nd Avenue. He remained there for about a half-hour. PO Koenke did not recall if PO Adams was the officer who assisted him with the mounted officer and horse. PO Koenke denied being involved in any arrests that day. He further stated that he was not even aware that anybody was arrested. PO Koenke did not know the name of the injured Mounted Unit officer. While walking the horse away, he claimed that there were numerous people in the intersection. After this, PO Koenke returned to the post and the intersection appeared "normal." He denied that any females approached him and asked him for his name and shield number at that time. PO Koenke did not make any arrests, nor was he involved in any.

Officer Statement – PO Sommer

PO William Sommer was interviewed at the CCRB on November 7th, 2003 (Enclosure 34c-34d). PO Sommer had a memo book entry at 1510, which indicated 1 under, 52/2. The following entry was for his end of tour. On his flysheet, he listed Adam Pierce as the individual who was arrested.

While PO Sommer was at the barricade, he informed several protesters, including one he later learned to be § 87(2)(b), that they were not allowed to go through the barricade and that they could not remove the barricade; PO Sommer explained that only residents were allowed access. In response, § 87(2)(b) picked up a barricade and threw it down. He then proceeded to push his way through, trying to get to the frozen area. § 87(2)(b) fled into the crowd, but PO Sommer and another officer pursued him and arrested him. § 87(2)(b) tripped and fell to the ground, at which time PO Sommer picked him up and handcuffed him. He denied having to use any force. PO Sommer believed that § 87(2)(b)'s action of throwing the barricade down caused the chaos at the intersection. While at the barrier, PO Sommer never saw any civilians trying to punch officers; he claimed that the civilians were just pushing. He denied seeing any officers punching the civilians.

After arresting § 87(2)(b) PO Sommer escorted Pierce to the frozen area, which was on 52nd Street east of 2nd Avenue. PO Sommer did not return to the intersection once he made this arrest. It was at this point that he observed a mounted horse falling to the ground. He did not see what caused it to fall to the ground. He estimated that he was 30 feet away from this incident.

Officer Statements – PO Kukla

PO Thomas Kukla was interviewed at the CCRB on November 21st, 2003 (Enclosure 35f-35g). PO Kukla was assigned § 87(2)(b)'s arrest at 5:35 PM, but he was not present for the incident or the actual apprehension. He indicated that he was assigned to an arrest team that responded to locations with heavy arrests. His supervisor was Sgt. Arroyo from the 108th Precinct. There were 8 other officers, though they were from other commands and PO Kukla did not know them. He had no memo book entries for the arrest. His closest entry was at 5:35 PM, which indicated that he went to the hospital with § 87(2)(b).

PO Kukla did not know his whereabouts at 3 PM that day. He indicated that his team "bounced around," meaning that they responded to wherever they needed. Sgt. Arroyo reassigned him to take § 87(2)(b) to the hospital while they were at Central Booking. PO Kukla indicated that § 87(2)(b) was already in one of the EMS trucks being treated. He went into it after the EMTs were finished and then they all went to § 87(2)(b).

§ 87(2)(b) did not complain or make comments about the arrest itself; he only complained that his shoulder and one of his legs hurt, though how he received his injuries, he did not indicate. PO Kukla confirmed that § 87(2)(b) had an injury to his nose, but that § 87(2)(b) did not indicate how he sustained the injury. At 8 PM, § 87(2)(b) was finished being treated at § 87(2)(b). PO Kukla had the responding doctor sign off and they left for Central Booking, arriving there at 9:35 PM. PO Kukla then prepared the arrest paperwork. Inspector Spadaro and Sgt. McCormack informed him what happened and told him what the charges were. The inspector and the sergeant did not indicate that they used force against § 87(2)(b). From what he understood of the situation, § 87(2)(b) had allegedly thrown something at a horse and Sgt. McCormack went to apprehend him, at which time a struggle ensued and § 87(2)(b) punched the sergeant in the nose or face; the sergeant also tore ligaments in his hand and had to be removed to the hospital from the scene. In the time that PO Kukla was present with § 87(2)(b) did not make any specific complaints to PO Kukla about Sgt. McCormack or any of the officers at the location of his arrest. § 87(2)(b)

was calm and was not ranting or raving about what happened. PO Kukla's last interaction with § 87(2)(b) was at 3:30 AM at Central Booking, at which time PO Kukla went end of tour.

Officer Statements – PO Fontana

PO Steven Fontana was interviewed at the CCRB on January 5th, 2004 (Enclosure 36-36c). PO Fontana escorted another injured officer – PO Kevin Adams – to a hospital “sometime in the afternoon.” He had no memo book entries pertaining to this incident.

PO Fontana remembered a large group of people trying to go through the established barricades with lots of pushing and shoving. He also recalled a mounted officer trying to disperse a crowd, though the horse fell to the ground. PO Fontana said that he saw a White male grab the reins of the horse to cause it to fall, though he could not describe the person who did this. PO Fontana observed this from across the street while standing on the northeast corner of the intersection. PO Fontana moved towards the middle of the street to assist, but as he got there, the male had already been handcuffed. PO Fontana did not assist in handcuffing anybody or physically apprehending a person. He recalled seeing officers on the ground, as well as civilians pushing officers. PO Fontana did not see any civilians trying to punch the other officers. He did not know the officers who were being pushed. He did not see any officers throwing punches at the civilians.

After everything calmed down, PO Fontana recalled a White female approaching him and asking him for his name and shield number. The female was taking down another officer's name and shield number when she asked him, and PO Fontana provided it to her. This occurred on the northeast corner. When shown one of § 87(2)(b)'s photographs depicting § 87(2)(b) on the date of the incident, PO Fontana did not recognize her. PO Fontana left the intersection when an unidentified supervisor directed him to go to the hospital to check on PO Adams.

Note:

PO Robert Glenn was not interviewed for this case. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Conclusions and Recommendations

Undisputed Facts

Between 3 and 3:30 PM, the intersection of 52nd Street and 2nd Avenue, by all accounts, erupted into chaos, as several protesters engaged officers posted at the eastern barricade on 52nd Street. A Mounted Unit officer – PO Robert Glenn – was knocked to the ground and several arrests were made. Sgt. McCormack and several other officers – notably, PO Adams and DI Spadaro – engaged § 87(2)(b) and handcuffed him. Sgt. McCormack and § 87(2)(b) sustained injuries during the arrest. None of the other civilians involved in this complaint were arrested.

Issues in Dispute

§ 87(2)(b) and § 87(2)(b) claimed that PO Tsoukias “abused his authority” as a police officer by using his baton to strike civilians. PO Tsoukias indicated that he used his baton in an effort to push people out of the street, specifically by holding it with two hands flat in front of his body. He denied striking or hitting any civilians with his nightstick.

The nature of the physical encounter involving the officers and § 87(2)(b) is in dispute. Sgt. McCormack testified that § 87(2)(b) punched him in the face. PO Adams stated that he observed an unidentified civilian punch Sgt. McCormack on the jaw, causing his head to snap back. § 87(2)(b) stated that he tried to punch a redheaded officer (Sgt. McCormack is red-haired), but missed the officer. § 87(2)(b) claimed that she jumped onto § 87(2)(b)'s back in an effort to prevent officers from approaching him, though no other account supported this. The mechanism of § 87(2)(b)'s injury is also disputed. § 87(2)(b) claimed that he observed § 87(2)(b) being “slammed” to the ground, causing the broken nose and leaving a pool of blood. § 87(2)(b) told EMTs and medical personnel on the date of the incident that he was kicked in the nose

by a horse. However, when interviewed by the CCRB, § 87(2)(b) claimed that a red-haired officer punched him in the nose while he was near the barricade. § 87(2)(b) stated that he observed an unidentified officer hit § 87(2)(b) while he was hunched over, though § 87(2)(b) characterized the hit as a “grazing” and not a direct hit. § 87(2)(b) added that after this initial “grazing” hit was made, another officer approached § 87(2)(b) and hit him directly in the face, though he indicated that this occurred after § 87(2)(b) had moved away from the barricade. Neither § 87(2)(b) nor § 87(2)(b) indicated that an officer punched § 87(2)(b) in the face. Sgt. McCormack indicated that he did reach over the barricade in an attempt to grab § 87(2)(b) and pull him over the barricade; he did not know if he struck § 87(2)(b) in the process, but stated that § 87(2)(b) moved away. No other officers stated that Sgt. McCormack or any other officers attempted to punch § 87(2)(b). All of the officers denied holding § 87(2)(b)’s arms behind his back while Sgt. McCormack or any officers stood in front of him and punched § 87(2)(b). The officers who admitted to being involved in § 87(2)(b)’s arrest claimed that they forced § 87(2)(b) to his stomach on the ground and wrestled his arms away to handcuff them.

Also disputed is whether pepper spray was used. § 87(2)(b) and § 87(2)(b) stated that they felt the effects of pepper spray when the intersection erupted into chaos. None of them sought medical treatment. § 87(2)(b) and § 87(2)(b) described the officer who used pepper spray as being in uniform, though they could provide no substantive description of the officer. § 87(2)(b) described the officer as wearing a *brown* uniform. She did not observe him with a weapon or shield, but stated that he had a radio and “got the impression” that he was an officer. All of the officers denied that they used pepper spray that day or that they felt the effects of pepper spray.

§ 87(2)(b) claimed that she asked numerous officers for their names and shield numbers; several of the officers provided the information, though others did not. § 87(2)(b) claimed that an unidentified civilian informed her that one of the officers who refused to provide his name and shield number was PO Harloff. PO Harloff could not recall if any female protesters requested his name and shield number over the course of the day. PO Modell and PO Fontana admitted that they were asked by females for their information, which they provided. However, neither officer identified § 87(2)(b) from one of § 87(2)(b)’s photographs. All of the other officers denied being asked for their names and shield numbers.

Credibility

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

Allegation A. PO Paul Harloff spoke obscenely towards § 87(2)(b)

§ 87(2)(b) alleged that prior to the “chaos,” an officer with red hair directed him and his friends to get back on the sidewalk and when § 87(2)(b) objected to the officer’s attempt to guide him onto the sidewalk, the officer allegedly stated, “fuck you” to § 87(2)(b). § 87(2)(b) identified PO Harloff, a red-haired officer assigned to the location as the subject officer, though PO Harloff denied making such a statement to any protesters. § 87(2)(g)

§ 87(2)(b) He could not recall speaking to any civilians prior to the intersection breaking down into chaos but denied speaking discourteously to any civilians over the course of the day. He could not recall § 87(2)(b) who was present at the barricades with § 87(2)(b) just before the incident. No other civilian or officer statement corroborated or refuted § 87(2)(b) allegation. § 87(2)(g)

Allegation B. An officer used physical force against an unidentified victim.

§ 87(2)(b) and § 87(2)(b) stated that they observed a White male officer strike an unidentified victim in the face at the barricade on the eastern side of the street. § 87(2)(b) indicated that the individual in question was depicted in a photograph taken by § 87(2)(b) (Enclosures 6x, 6z). A check of the complaint tracking system found no other complaint for this location. Moreover, the statements of § 87(2)(b) and § 87(2)(b) indicated that the individual was not arrested. Arrest reports

obtained from the location (Enclosure 39-39af) indicate that the individual depicted in § 87(2)(b)'s photographs was not arrested at this location, § 87(2)(g)

Allegation C. An officer used physical force against § 87(2)(b) by punching § 87(2)(b) in the face, in violation of Patrol Guide Procedure 203-11.

Nobody agrees as to how § 87(2)(b) sustained a broken nose. In fact, even § 87(2)(b) was inconsistent in his own statements as to how he sustained a broken nose by first telling the responding EMTs and medical personnel at § 87(2)(b) that he was kicked in the head by a horse's hoof and then claiming to the CCRB that he was punched in the face by a red-haired officer. While Sgt. McCormack did not deny that he punched § 87(2)(b) he explained that he attempted to grab § 87(2)(b) by reaching over the barricade in an effort to pull § 87(2)(b) over the barricade towards him and that during the execution of this maneuver might have made contact with § 87(2)(b)'s face but was not certain of this. However, § 87(2)(b) did not identify Sgt. McCormack as the subject officer in this matter, nor did he identify PO Paul Harloff who is also red-haired. § 87(2)(g)

Allegation D. Sgt. Christopher McCormack used physical force against § 87(2)(b) in violation of Patrol Guide Procedure 203-11.

Allegation E. INS Neil Spadaro used physical force against § 87(2)(b) in violation of Patrol Guide Procedure 203-11.

§ 87(2)(g)

Allegation F. An officer used pepper spray against § 87(2)(b) and § 87(2)(b)

All of the above protesters stated that they felt the effects of pepper spray, whereas all of the officers present at the location denied ever using pepper spray or feeling its effects. § 87(2)(g)

Allegation G. PO Paul Tsoukias used physical force against an unidentified victim.

§ 87(2)(b) highlighted PO Tsoukias as an officer who "abused his authority" by pushing barricades into protesters and "hitting peaceful protesters with a baton." PO Tsoukias denied pushing barricades into any protesters (as did all of the officers and the majority of the civilians). § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: